

REMARKS

This communication responds to the Office Action of March 19, 2010, in which the Examiner rejected claims 1-42, 48, and 49 under 35 U.S.C. § 112, rejected claims 1-7, 15, 25, 29, 39, 48-49, 56, and 57 under 35 U.S.C. § 102(e), rejected claims 50-56 under 35 U.S.C. § 102(b), and rejected claims

By this communication, claims 1-3, 6-7, 15, 17, 19, 29-30, 32-34, and 42 have been amended, claims 4-6, 16, 31, and 48-58 have been cancelled, and claims 59-61 have been added.

In view of the amendments and the following remarks, reconsideration and allowance are respectfully requested.

Claim Rejections Under 35 U.S.C. §112

Claims 1-42, 48 and 49 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to the rejection of claim 1, claim 1 has been amended to clarify the structure being recited and to provide antecedent basis for the elements of the claim. Applicants direct the Examiner to FIG. 11 of the present application which provides an example of a top plan view of a chisel 74. With respect to the claim phrase “wherein the cutting edge is non-linear in shape in a top plan view and has an apex in the top plan view, wherein the cutting edge has first and second cutting coplanar portions in the first plane, each first and second cutting coplanar portion tapering toward the proximal direction,” the edge 92 provides an example of a non-linear cutting edge, the apex A provides an example of an apex, and the segments of the V-shaped edge 92 provide an example of first and second cutting coplanar portions in a first plane (e.g., the plane of the page) that taper toward the proximal direction.

With respect to the rejection of claim 4, claim 4 has been cancelled.

With respect to the rejection of claims 6 and 15, claims 6 and 15 have been amended to recite first and second bone cutting blades.

With respect to the rejection of claim 29, claim 29 has been amended to clarify the structure being recited and to provide antecedent basis for elements of the claim. Applicants direct the Examiner to FIG. 11 of the present application which provides an example of a top plan view of a chisel 74. With respect to the claim phrase, “a tangent to the blade cutting edges lying in a second plane normal to the first plane, the second plane being inclined relative to the longitudinal axis and relative to the opposing side surfaces in a direction toward the proximal end, the blade cutting edges each having a portion in which the tangent thereto intersects either or both of the first and second side surfaces in a top plan view at an acute angle,” the plane of the page provides an example of the first plane, a plane that includes one of the segments of the V-shaped edge 92 and extends normal to the first plane provides an example of the second plane, one of the segments of the V-shaped edge 92 provides an example of a tangent to the edge 92 lying in the second plane, and one of the segments of the V-shaped edge 92 provides an example of a tangent to the edge 92 intersecting a side surface (e.g., side surface 104) at an acute angle.

With respect to the rejection of claim 42, claim 42 has been amended to clarify the structural relationship between the sleeve and the handle.

With respect to the rejection of claims 48 and 49, claims 48 and 49 have been cancelled.

In view of the foregoing, reconsideration and withdrawal of the § 112 rejections are respectfully requested.

Allowable Subject Matter

Applicants acknowledge and appreciate the indication that claims 8-14, 16-24, 26-28, 30-38, and 40-42 would be allowable if amended to overcome the rejections under 35 U.S.C. § 112, second paragraph.

As amended herein, independent claims 1, 29, 59, 60, and 61 substantially represent claims 8, 31, 10, 16, and 30, respectively, rewritten in independent form including the base claim and any intervening claims, and amended to overcome the rejections under 35 U.S.C. § 112, second paragraph.

Accordingly, independent claims 1, 29, 59, 60, and 61, and claims depending therefrom, are patentable over the art of record. Reconsideration and allowance are respectfully requested.

Conclusion

This application now stands in allowable form and reconsideration and allowance are respectfully requested.

This response is being submitted on or before August 19, 2010 with the required fee for a two-month extension of time, making this a timely response. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

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By: K. Levitt
Kenneth E. Levitt, Reg. No. 39,747
(612) 340-2755